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ABSTRACT

A reference guide to laws, rules, and regulations that govern the chiropractic practice in New York State is presented. After an overview of professional regulation in the state, licensing requirements/procedures for chiropractors are described. Provisions of Title VIII, Articles 130 and 132, of the Education Law are also covered, along with regulations of the Commissioner of Education. Attention is directed to: admission to the profession; duration and registration of a license; regulation of the professions; state management; defining professional misconduct and proceedings for misconduct; and unauthorized acts that have criminal penalties, such as unauthorized practice. Rules of the Board of Regents cover disciplinary proceedings in the professions, licensing, determination of good moral character, and unprofessional conduct. Included is a U.S. and Canadian listing of accredited chiropractic educational programs with the date after which graduation is acceptable. A list of reference texts for the clinical competence examination, effective February 1, 1984, is presented, including authors and publishers. Guidelines for requesting transcripts from the National Board of Chiropractic Examiners are also provided, along with a sample request form. (SW)

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NEW YORK STATE

CHIROPRACTIC

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The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Office of the Professions
Cultural Education Center
Albany, New York 12230
November 1985

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CHIROPRACTIC

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PREFACE

This book has been developed to serve as a reference guide. It contains laws, rules and regulations of the State Education Department that governs chiropractic practice in the State of New York. This book also highlights requirements and procedures for obtaining licensure and first registration as a chiropractor.

The following phone numbers and units in the State Education Department may be contacted for inquiries related to:

	Telephone Numbers 518 Area Code
Licensure Forms and Requirements (Chiropractic Processing Unit)	474-3833
Licensure Parchments (License Unit)	474-5170
Registration Status (Registration Unit)	474-3810
Scope of Practice Issues (State Chiropractic Board)	474-4974
Verification of Licensure/Registration (Customer Service Unit)	474-6097
In-State/Other than 518	1-800-342-3729
(A general statement – no fee required)	
Certification of Licensure (Customer Service Unit)	474-6097
(A detailed statement – $20.00 fee required)	

In writing to the State Education Department, letters should be addressed to the attention of the appropriate unit, for instance:

Attention: Chiropractic Processing Unit
New York State Education Department
Division of Professional Licensing Services
Cultural Education Center
Albany, NY 12230

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NOTICE

CHANGES ARE CONSTANTLY MADE IN THE LAW AND RULES. THEREFORE, THE READER MUST BE AWARE THAT THE INFORMATION CONTAINED IN THIS BROCHURE IS INFORMATIONAL BUT MAY NOT BE TOTALLY CURRENT.

CONTACT THE STATE BOARD FOR CHIROPRACTIC IF YOU HAVE ANY QUESTIONS.

PROFESSIONAL REGULATION IN NEW YORK STATE

State regulation in 31 fields of professional practice, including issuance of licenses and enforcement of rules of professional conduct, is vested in the Board of Regents in New York. Medicine was the first profession regulated by the Board of Regents with the establishment of licensure of physicians in 1892.

Practice of a profession is a public trust, earned through educational preparation, experience, passing rigorous examinations, and commitment on the part of the practitioner to public service. The professional carries out that trust in accordance with ethical standards developed through years – often decades and even centuries – of the best professional traditions, and in accordance with state law and regulations. Professional practitioners are urged to be always conscious of the very special obligations of public service and of ethical conduct that the privilege of licensure creates.

The New York system of professional regulation is unique in that it places a citizen body, the Board of Regents, which is responsible for education at all levels, in charge of the education, licensing and discipline of the professions. It is also unique in providing for boards to advise the Commissioner and the Regents on all matters relating to licensure and discipline. The boards, each aided by an Executive Secretary appointed by the Regents, provide communication links to the professions and the public. The boards make recommendations on policy and on disciplinary issues and provide advice to the Department and the Board of Regents.

Under policy established by the Board of Regents the Title VIII professions are administered through the following units of the Office of the Professions in the Office of Higher and Professional Education.

Professional Education and Professional Boards

The Department monitors programs of professional education according to standards for registration (accreditation) established by the Board of Regents. Specifically, through Board Executive Secretaries and consultants, the Department evaluates proposed new programs as well as currently registered programs in some 300 institutions that prepare individuals for the practice of one or more professions. Information concerning registered programs, including licensure-qualifying programs in the professions, may be obtained by contacting the appropriate Board office.

Twenty state boards for the professions are appointed by the Board of Regents to advise the Department and the Regents on matters relating to professional licensure, practice and conduct. The law provides that these boards be comprised of a number of licensed professionals and one or more "public members," consumers of the services provided by the profession concerned. Some 300 persons serve on the twenty boards.

Minority Access to the Licensed Professions

The regents are committed to the premise that equal educational opportunity in programs that lead to licensure is a right of all New York State residents. Despite progress in achieving greater access for minorities and disadvantaged populations, there still exists a severe under-representation of minorities in the licensed professions. To correct this problem, the Regents and the State Education Department endorse a coordinated and comprehensive effort involving the sustained efforts of the educational system, professional boards, professional associations and societies, government, industry, parent groups, and individual professionals. Any persons or organizations interested in learning more about or participating in state and local projects may contact the Executive Secretary for the State Board of the involved profession or the Department's Minority Professional Education Coordinator.

Professional Licensing Services

The Division of Professional Licensing Services of the State Education Department issues more than 50 different authorizations to practice in the 31 professions licensed or otherwise credentialed by the Department and Board of Regents. In cooperation with the Executive Secretary of the State Board in each licensed profession, the Division of Professional Licensing Services is responsible for enforcing licensing rules and regulations and assuring that the standards set by law are met prior to licensure.

The Division also administers the registration system for licensed professionals practicing in the State. In order to practice or use a professional title in New York, a

professional must be registered as well as licensed. The registration period is specific for each profession and expires for all members of that profession on the date indicated on each practitioner's registration certificate. It is the responsibility of any professional practicing in New York to maintain current registration. It is also the professional's responsibility to notify the Department directly of any change of address or of name. Notifying the local post office does not change the records on file in the State Education Department.

Professional Discipline

A license permitting an individual to practice in New York State is in effect for the lifetime of the holder unless use of the license is affected by a finding of professional misconduct. Professional misconduct is defined in Section 6509, Education Law, and in Part 29, Rules of the Board of Regents. It is the responsibility of each professional to be aware of the laws and regulations covering his or her profession. Copies of statute and rules are included in this handbook.

The Office of Professional Discipline of the State Education Department enforces standards of professional conduct in all professions, except that initial enforcement action in medicine is vested in the Office of Professional Medical Conduct, Department of Health. Any person who suspects or has knowledge of professional misconduct should report the information to the appropriate office. (Physicians are required by law to make such reports; failing to do so is, in itself, misconduct.) When either office discovers a possible violation of standards, it starts professional misconduct proceedings. Final disciplinary actions in all professions are taken by the Board of Regents. If the Regents decide that a licensed person has acted unprofessionally, they may suspend or revoke the authorization to practice. The Regents may also impose fines and other appropriate penalties.

Professional misconduct includes practicing fraudulently, negligently, or incompetently; practicing while being impaired by alcohol, drugs, or mental disability; being convicted of a crime; and similar serious matters. Some examples of misconduct are: physically abusing a patient, not keeping proper records, ordering excessive tests, behaving in a way that indicates moral unfitness, providing treatment or services which were not authorized, neglecting a patient in need of immediate care, guaranteeing a cure, and others.

Fee disagreements do not represent misconduct, but double billing or other fraudulent billing or charging for unnecessary services, tests or procedures does constitute misconduct.

Telephone calls or letters reporting professional misconduct will be treated confidentially.

To report misconduct for professions other than medicine, write the New York State Education Department, Office of Professional Discipline, 622 Third Avenue, New York, N.Y. 10017. Telephone: 212-557-2100.

Or call the **Professional Misconduct Hotline:** 1-800-442-8106. The call is toll-free from anywhere in New York State. (On holidays or during nonbusiness hours, a recorded message may be left and the call will be returned.) Or call or write the nearest regional office:

Albany: Office of Professional Discipline, State Education Department, Cultural Education Center, Albany, NY 12230. Telephone: 518-474-3861.

Buffalo: Office of Professional Discipline, 2 Pleasant Avenue West, Lancaster, NY 14086. Telephone: 716-681-2860 or 2861.

Long Island: Office of Professional Discipline, 525 Half Hollow Road, Dix Hills, NY 11746. Telephone: 516-549-2371 or 2321.

Rochester: Office of Professional Discipline, P.O. Box 50, 150 Telephone Road, West Henrietta, NY 14586. Telephone: 716-334-5184 or 5469.

Syracuse/Utica: Office of Professional Discipline, Tecumseh School-Room 11, Nottingham & Waring Road, Jamesville, NY 13078. Telephone: 315-445-2111 or 2112.

White Plains: Office of Professional Discipline, 55 Church Street, White Plains, NY 10601. Telephone: 914-761-8067.

LICENSURE REQUIREMENTS FOR CHIROPRACTIC

GENERAL INFORMATION

1. Section 73.2 (b) of the Regulations of the Commissioner of Education (pg. 21), effective September 1, 1977, authorizes the use of the National Board of Chiropractic Examiners examination subsequent to September 1, 1977.
2. New York State no longer administers its own written licensing examination but will accept *passing grades* obtained on the National Board examination pursuant to the conditions specified below.
3. The granting of a license by New York State on the basis of scores obtained on the National Board examinations will in no way reflect or relate to qualification for certificate status with the National Board. The standards of the two organizations are separate, distinct and different.
4. Candidates may file for licensure in the last year of their professional program and request that the transcript of National Board scores be sent to the Department. Upon verification of program completion (or expected completion of an acceptable professional program) and receipt of scores from the National Board which meet New York State standards for licensing, those candidates meeting all other requirements of law, rule and regulation will be admitted to the clinical competence examination.
5. Arrangements for taking the National Board examination are to be made directly with the National Board. At the time of requesting admission to the examination the applicant should provide a statement to the National Board authorizing release of grades to the New York State Board for Chiropractic. It is the responsibility of the applicant to have the *grades* forwarded to New York State. (see page 36)
6. Those persons who took National Board examinations prior to September 1, 1977 must reapply to the National Board to sit for examination for licensure purposes. National Board examinations taken prior to September 1, 1977 shall not be counted toward meeting New York State licensing requirements.
7. A passing grade on a National Board subject is 375. A passing grade on a clinical competence subject is 75.

APPLICATION FOR LICENSURE

Persons wishing to be licensed in New York State will, upon completion of the chiropractic education program and the National Board examination, file the regular application with the Division of Professional Licensing Services. The applicable fee will be $190 of which $100 is the licensing fee and clinical competence examination fee and $90 is the required first registration fee.

Applications must be complete at least 60 days before the examination.

EXAMINATION TITLES AND REPORTING OF GRADES

A. National Board

New York State will accept only those grades reported on the official transcript of the National Board of Chiropractic Examiners which bears the seal of the National Board of Chiropractic Examiners and is sent directly to the Education Department. A passing score on each subject of each part of the National Board examination is required.

B. Clinical Competence Examination

Persons licensed after January 1, 1979 must pass a clinical competence examination administered by the New York State Board for Chiropractic. The examination will be offered in January and July. It will be given in four parts as follows:

Neurological & Orthopedic Testing

Diagnostic X-ray Interpretation &

Law and Regulation

Physical Diagnosis

Technique

PRE-PROFESSIONAL REQUIREMENTS

1. Two years of college study at the baccalaureate level in an accredited college.
2. Courses included in that study are expected to include:

1 year each of:	Physics
	General Chemistry
	Biology or Zoology
½ year of:	Organic Chemistry

All science courses must have associated laboratory work.

THE EDUCATION LAW
TITLE VIII
ARTICLE 130

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SUBARTICLE 1. INTRODUCTORY SUMMARY

§ 6500. Introduction

This title provides for the regulation of the admission to and the practice of certain professions. This first article applies to all the professions included in this title, except that prehearing procedures and hearing procedures in connection with the regulation of professional conduct of the profession of medicine shall be conducted pursuant to the provisions of Title II-A of article two of the public health law. Each of the remaining articles applies to a particular profession.

§ 6501. Admission to a profession (licensing)

Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the education department. To qualify for a license an applicant shall meet the requirements prescribed in the article for the particular profession.

§ 6502. Duration and registration of a license

1. A license shall be valid during the life of the holder unless revoked, annulled or suspended by the board of regents. A licensee must register with the department to practice in this state.

2. The department shall establish the beginning dates of the registration periods for each profession and mail an application for registration to every licensee currently registered at least four months prior to the beginning of the registration period for the respective profession.

3. An application for registration and the required registration fee shall be submitted together with or as a part of the application for a license. A person initially licensed or a licensee resuming practice after a lapse of registration in the last four months of a registration period shall be registered for the succeeding registration period without an additional registration fee. The department shall renew the registration of each licensee upon receipt of a proper application,

on a form prescribed by the department, and the registration fee. Any licensee who fails to register by the beginning of the appropriate registration period shall be required to pay an additional fee for late filing of five dollars for each month that registration has been delayed while such licensee continued to practice his profession. The licensee resuming practice after a lapse of registration shall be permitted to practice without actual possession of the registration certificate for not more than four months after mailing to the department the required application fee.

4. Any licensee who is not engaging in the practice of his profession in this state and does not desire to register shall so advise the department. Such licensee may subsequently register and resume practice without paying an additional fee for failure to register at the beginning of the registration period.

5. Licensees shall notify the department of any change of name or mailing address within thirty days of such change.

§ 6503. Practice of a profession

Admission to the practice of a profession (1) entitles the licensee to practice the profession as defined in the article for the particular profession, (2) entitles the individual licensee to use the professional title as provided in the article for the particular profession, and (3) subjects the licensee to the procedures and penalties for professional misconduct as prescribed in this article (sections sixty-five hundred nine, sixty-five hundred ten, and sixty- five hundred eleven).

§ 6504. Regulation of the professions

Admission to the practice of the professions (licensing) and regulation of such practice shall be supervised by the board of regents (section sixty-five hundred six) and administered by the education department (section sixty-five hundred seven), assisted by a state board for each profession (section sixty-five hundred eight).

§ 6505. Construction

No definition of the practice of a profession shall be construed to restrain or restrict the performance of similar acts authorized in the definition of other professions.

§ 6505 – a. Professional referrals

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any association or society of professionals authorized to practice under this title, or any employee, agent, or member thereof, for referring any person to a member of the profession represented by such association or society provided that such referral was made without charge as a service to the public, and without malice, and in the reasonable belief that such referral was warranted, based upon the facts disclosed.

SUBARTICLE 2. STATE MANAGEMENT

§ 6506. Supervision by the board of regents

The board of regents shall supervise the admission to and the practice of the professions. In supervising, the board of regents may:

1. Promulgate rules;

2. Establish by rule, high school, preprofessional, professional and other educational qualifications required for licensing in the professions regulated by this title;

3. Charter schools offering educational programs for the professions regulated by this title, and no such school shall operate in this state without such a charter, except Columbia University, any school chartered by special act of the legislature prior to September one, nineteen hundred seventy-one, and schools specifically authorized to conduct such programs by the regents;

4. Appoint such committees as it deems necessary and compensate members of such committees who are not members of the board of regents or the department up to one hundred dollars per day for each day devoted to committee functions, together with their necessary expenses;

5. Waive education, experience and examination requirements for a professional license prescribed in the article relating to the profession, provided the board of regents shall be satisfied that the requirements of such article have been substantially met;

6. Indorse a license issued by a licensing board of another state or country upon the applicant fulfilling the following requirements:

a. Application: file an application with the department;

b. Education: meet educational requirements in accordance with the commissioner's regulations;

c. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: be at least twenty-one years of age;

f. Citizenship: be a United States citizen, or file a declaration of intention to be come a citizen, unless such requirement is waived, in accordance with the commissioner's regulations;

g. Character: be of good moral character as determined by the department; and

h. Fees: pay a fee to the department for indorsement of forty dollars.

7. Direct the department to remedy any error, omission, delay or other circumstance in the issuance or registration of a license;

8. Designate a professional conduct officer, who shall be the chief administrative officer of the office of the professions, or his designee, in connection with professional licensing and misconduct proceedings and criminal matters, such officer to be empowered to issue subpoenas and administer oaths in connection with such proceedings;

9. Establish by rule, standards of conduct with respect to advertising, fee splitting, practicing under a name other than that of the individual licensee (when not specifically authorized), proper use of academic or professional degrees or titles tending to imply professional status, and such other ethical practices as such board shall deem necessary; and

10. Delegate to department officers the disposition of any licensing matters pursuant to rules.

§ 6507. Administration by the education department

1. The commissioner and the department shall administer the admission to and the practice of the professions.

2. In administering, the commissioner may:

a. Promulgate regulations;

b. Conduct investigations;

c. Issue subpoenas;

d. Grant immunity for prosecution in accordance with section 50.20 of the criminal procedure law to anyone subpoenaed in any investigation or hearing conducted pursuant to this title; and

e. Excuse, for cause acceptable to the commissioner, the failure to register biennially. Such excuse shall validate and authorize such practitioner's right to practice pending registration.

3. The department assisted by the board for each profession, shall:

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession;

b. Review qualifications in connection with licensing requirements; and

c. Provide for licensing examinations and reexaminations.

4. The department shall:

a. Register or approve educational programs designed for the purpose of providing professional preparation which meet standards established by the department.

b. Issue licenses, registrations, and limited permits to qualified applicants;

c. (i) Issue a certificate of authority to a qualified professional service corporation being organized under section fifteen hundred three of the business corporation law on payment of a fee of twenty-five dollars, (ii) file a certified copy of each certificate of incorporation and amendment thereto within thirty days after the filing of such certificate or amendment on payment of a fee of ten dollars, (iii) file the annual statement required by section fifteen hundred fourteen of the business corporation law on payment of a fee of ten dollars.

d. Revoke limited permits on the recommendation of the committee on professional conduct for the profession concerned;

e. Maintain public records of licenses issued and retain in its files identifying data concerning each person to whom a license has been issued;

f. Collect the fees prescribed by this title or otherwise provided by law;

g. Prepare an annual report for the legislature, the governor and other executive offices, the state boards for the professions, professional societies, consumer agencies and other interested persons. Such report shall include but not be limited to a description and analysis of the administrative procedures and operations of the department based upon a statistical summary relating to (i) new licensure, (ii) discipline, (iii) complaint, investigation, and hearing backlog, (iv) budget, and (v) the state boards for the professions. Information provided shall be enumerated by profession; and

h. Establish an administrative unit which shall be responsible for the investigation, prosecution and determination of alleged violations of professional conduct.

5. The commissioner and the department shall perform any other functions necessary to implement this title.

§ 6508. Assistance by state boards for the professions

1. A board for each profession shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession. Within each board a committee on licensing may be appointed by the board chairman.

Except as provided in paragraph (a) of this subdivision, the membership of each professional licensing board shall be increased by one member, and each such board shall have at least one public representative who shall be selected by the board of regents from the general public.

a. The membership of the professional licensing boards created under sections sixty-five hundred twenty-three, sixty-eight hundred four, sixty-nine hundred three, and seventy-four hundred three of this chapter shall be increased by two members, and each such board shall have at least two public representatives, who shall be selected by the board of regents from the general public.

b. For the purposes of this title, a "public representative" shall be a person who is a consumer of services provided by those licensed or otherwise supervised or regulated by the boards created hereunder, and shall not be, nor within five years immediately preceding appointment have been:

(i) a licensee or person otherwise subject to the supervision or regulation of the board to which appointed; or

(ii) a person maintaining a contractual relationship with a licensee of such board, which would constitute more than two percentum of the practice or business of any such licensee, or an officer, director, or representative of such person or group of persons.

2. Each board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in other licensing matters as prescribed by the board of regents.

3. Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as prescribed by the board of regents.

4. Members of each board shall be appointed by the board of regents for five-year terms except that the terms of those first appointed shall be arranged so that as nearly as possible an equal number shall terminate annually. A vacancy occurring during a term shall be filled by an appointment by the board of regents for the unexpired term. Each state professional association or society may nominate one or more candidates for each appointment to be made to the board for its profession, but the board of regents shall not be required to appoint candidates so nominated. Former members of a board may be re-appointed by the board of regents, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license. Former board members so appointed may not comprise a majority of any panel.

5. Each member of a board shall receive a certificate of appointment, shall before beginning his term of office file a constitutional oath of office with the secretary of state, shall receive up to one hundred dollars as prescribed by the board of regents for each day devoted to board work, and shall be reimbursed for his necessary expenses. No member shall serve beyond the age of seventy. Any member may be removed from a board by the board of regents for misconduct, incapacity or neglect of duty.

6. Each board shall elect from its members a chairman and vice-chairman annually, shall meet upon call of the chairmen or the department, any may adopt bylaws consistent with this title and approved by the board of regents. A quorum for the transaction of business by the board shall be a majority of members but not less than five members.

7. An executive secretary to each board shall be appointed by the board of regents on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the board of regents.

SUBARTICLE 3. PROFESSIONAL MISCONDUCT

§ 6509. Definitions of professional misconduct

Each of the following is a professional misconduct, any licensee found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten shall be subject to the penalties prescribed in section sixty-five hundred eleven:

1. Obtaining the license fraudulently,

2. Practicing the profession fraudulently, beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion,

3. Practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability,

4. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects,

5. a. Being convicted of committing an act constituting a crime under:

(i) New York State law or,

(ii) Federal law or,

(iii) The law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law;

b. Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state;

c. Having been found to be in violation of the applicable provisions of title seven of article thirty-three of the public health law by the commissioner of health,

6. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin,

7. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license,

8. Practicing the profession while the license is suspended, or wilfully failing to register or notify the department of any change of name or mailing address, or if a professional service corporation wilfully failing to comply with sections fifteen hundred three and fifteen hundred fourteen of the business corporation law,

9. Committing unprofessional conduct, as defined by the board of regents in its rules or by the commissioner in regulations approved by the board of regents,

10. A willful violation by a licensed physician of subdivision eleven of section two hundred thirty of the public health law, or

11. A violation of section twenty-eight hundred three-d of the public health law.

12. Failure to comply with an order issued pursuant to subdivision seven of section two hundred thirty of the public health law.

§ 6509 – a. Additional definition of professional misconduct; limited application

Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of articles one hundred thirty-one, one hundred thirty-one-a, one hundred thirty-two, one hundred thirty-three, one hundred thirty-seven, one hundred thirty-nine, one hundred forty- one, one hundred forty-three, one hundred forty-four, one hundred fifty-six and one hundred fifty-nine of this chapter may be revoked, suspended or annulled or such person may be subject to any other penalty provided in section sixty-five hundred eleven of this article in accordance with the provisions and procedure of this article for the following:

That any person subject to the above enumerated articles, has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting or refunding of a fee for, or has directly requested, received or profited by means of a credit of other valuable consideration as a commission, discount or gratuity in connection with the furnishing of professional care, or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artifical limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies or any other goods, services or supplies prescribed for medical diagnosis, care or treatment, under this chapter, except payment, not to exceed thirty-three and one-third per centum of any fee received for x-ray examination, diagnosis or treatment, to

any hospital furnishing facilities for such examination, diagnosis or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation nor from pooling fees and moneys received, either by the partnerships, professional corporations or groups by the individual members, thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporation or groups be probitited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations or in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workmen's compensation law except as expressly authorized by the workmen's compensation law. Nothing contained in this chapter shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorationing a medical or dental expense indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the requet of the subscriber, provided that prior to payment thereof such professionals shall submit both to the medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

§ 6510. Proceedings in cases of professional misconduct

In cases of professional misconduct the proceedings shall be as follows:

1. Preliminary procedures.
   a. Complaint. A complaint of a licensee's professional misconduct may be made by any person to the education department.
   b. Investigation. The department shall investigate each complaint which alleges conduct constituting professional misconduct. The results of the investigation shall be referred to the professional conduct officer designated by the board of regents pursuant to section sixty-five hundred six of this article. If such officer decides that there is not substantial evidence of professional misconduct or that further proceedings are not warranted, no further action shall be taken. If such officer, after consultation with a professional member of the applicable state board for the profession, determines that there is substantial evidence of professional misconduct, and that further proceedings are warranted, such proceedings shall be conducted pursuant to this section. If the complaint involves a question of professional expertise, then such officer may seek, and if so shall obtain, the concurrence of at least two members of a panel of three members of the applicable board.
   c. Charges. In all disciplinary proceedings other than those terminated by an administrative warning pursuant to paragraph a of subdivision two of this section, the department shall prepare the charges. The charges shall state the alleged professional misconduct and shall state concisely the material facts but not the evidience (sic) by which the charges are to be proved.
   d. Service of charges and of notice of hearing. A copy of the charges and notice of any hearing pursuant to subdivision two or three of this section shall be served on the licensee personally by the department at least fifteen days before the hearing. If personal service cannot be made after due diligence and such fact is certified under oath, a copy of the charges and the notice of hearing shall be served by certified mail, return receipt requested to the licensee's last known address by the department at least twenty days before the hearing.
2. Expedited procedures.
   a. Violations. Violations involving professional misconduct of a minor or technical nature may be resolved by expedited procedures as provided in paragraph b or c of this subdivision. For purposes of this subdivision, violations of a minor or technical nature shall include, but shall not be limited to, isolated instances of violations concerning professional advertising or record keeping, and other isolated violations which do not directly affect or impair the public health, welfare or safety. The board of regents shall make recommendations to the legislature on or before June first, nineteen hundred eighty-one, for the further definition of violations of a minor or technical nature. The initial instance of any violation of a minor or technical nature may be resolved by the issuance of an administrative warning pursuant to paragraph b of this subdivision. Subsequent instances of similar violations of a minor or technical nature within a period of three years may be resolved by the procedure set forth in paragraph c of this subdivision.

b. Administrative warning. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of professional misconduct but that it is an initial violation of a minor or technical nature which would not justify the imposition of a more severe disciplinary penalty, the matter may be terminated by the issuance of an administrative warning. Such warnings shall be confidential and shall not constitute an adjudication of guilt or be used as evidence that the licensee is guilty of the alleged misconduct. However, in the event of a further allegation of similar misconduct by the same licensee, the matter may be reopened and further proceedings instituted as provided in this section.

c. Determination of penalty on uncontested minor violations. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of a violation of a minor or technical nature, and of a nature justifying a penalty as specified in this paragraph, the department may prepare and serve charges either by personal service or by certified mail, return receipt requested. Such charges shall include a statement that unless an answer is received within twenty days denying the charges, the matter shall be referred to a violations committee consisting of five members of the state board for the profession, at least one of whom shall be a public representative for determination. The violations panel shall be appointed by the executive secretary of the state board. The licensee shall be given at least fifteen days notice of the time and place of the meeting of the violations committee and shall have the right to appear in person and by an attorney and to make a statement to the committee in mitigation or explanation of the misconduct. The department may appear and make a statement in support of its position. The violations committee may issue a censure and reprimand, and in addition, or in the alternative, may impose a fine not to exceed five hundred dollars for each specification of minor, or technical misconduct. If the fine is not paid within three months the matter may be reopened and shall be subject to the hearing and regents decision procedures of this section. The determination of the panel shall be final and shall not be subject to the regents decision procedures of this section. If an answer is filed denying the charges, the matter shall be processed as provided in subdivision three of this section.

d. Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision five of section sixty-five hundred nine of this article, the professional conduct officer may prepare and serve the charges and may refer the matter directly to a regents review committee for its review and report of its findings, determination as to guilt, and recommendation as to the measure of discipline to be imposed. In such cases the notice of hearing shall state that the licensee may file a written answer or brief; that the licensee may appear personally before the regents review committee and may be represented by counsel, and the notice may contain such other information as may be considered appropriate by the department. In lieu of referring the matter to the board of regents, the regents review committee may refer any such matter for further proceedings pursuant to paragraph b or c of this subdivision or subdivision three of this section.

3. Adversary proceedings. Contested disciplinary proceedings and other disciplinary proceedings not resolved pursuant to subdivision two of this section shall be tried before a hearing panel of the appropriate state board as provided in this subdivision.

a. Notice of hearing. The department shall set the time and place of the hearing and shall prepare the notice of hearing. The notice of hearing shall state (1) the time and place of the hearing, (2) that the licensee may file a written answer to the charges prior to the hearing, (3) that the licensee may appear personally at the hearing and may be represented by counsel, (4) that the licensee shall have the right to produce witnesses and evidence in his behalf, to cross-examine witnesses and examine evidence produced against him, and to issue subpoenas in accordance with the provisions of the civil practice law and rules, (5) that a stenographic record of the hearing will be made, and (6) such other information as may be considered appropriate by the department.

b. Hearing panel. The hearing shall be conducted by a panel of five or more members of the applicable state board for the profession, at least one of whom shall be a public representative. The executive secretary for the applicable state board shall appoint the panel and shall designate its chairperson. In addition to said panel

members, the department shall designate an administrative officer, admitted to practice as an attorney in the state of New York, who shall have the authority to rule on all motions, procedures and other legal objections and shall draft a report for the hearing panel which shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

c. Conduct of hearing. The evidence in support of the charges shall be presented by an attorney for the department. The licensee shall have the rights required to be stated in the notice of hearing. The panel shall not be bound by the rules of evidence, but its determination of guilt shall be based on substantial legal evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity to serve of one member of the hearing panel.

d. Results of hearing. The hearing panel shall render a written report which shall include (1) findings of fact, (2) a determination of guilty or not guilty on each charge, and (3) in the event of a determination of guilty, a recommendation of the penalty to be imposed. For the panel to make a determination of guilty, a minimum of four of the voting members of the panel must vote for such a determination. A copy of the report of the hearing panel shall be transmitted to the licensee.

4. Regents decision procedures.

a. Regents review committee. The transcript and report of the hearing panel shall be reviewed at a meeting by a regents review committee appointed by the board of regents. The regents review committee shall consist of three members, at least one of whom shall be a regent.

b. Regents review committee meetings. The review shall be based on the transcript and the report of the hearing panel. The licensee may appear at the meeting, and the regents review committee may require the licensee to appear. The licensee may be represented by counsel. The department shall notify the licensee at least seven days before the meeting (1) of the time and place of the meeting, (2) of his right to appear, (3) of his right to be represented by counsel, (4) whether or not he is required to appear, and (5) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the board of regents. In cases referred directly to the regents review committee pursuant to paragraph d of subdivision two of this section, the review shall be based upon the charges, the documentary evidence submitted by the department, and any answer, affidavits or brief the licensee may wish to submit.

c. Regents decision and order. The board of regents (1) shall consider the transcript, the report of the hearing panel, and the report of the regents review committee, (2) shall decide whether the licensee is guilty or not guilty on each charge, (3) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this article, and (4) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board of regents. If the board of regents disagrees with the hearing panel's determination of not guilty, it shall remand the matter to the original panel for reconsideration or to a new panel for a new hearing. The panel's determination of not guilty on reconsideration or a new hearing shall be final. The order shall be served upon the licensee personally or by certified mail to the licensee's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The licensee shall deliver to the department the license and registration certificate which has been revoked, annulled, suspended, or surrendered within five days after the effective date of the service of the order. If the license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, the licensee shall submit an affidavit to that effect, and shall deliver such license or certificate to the department when located.

5. Court review procedures. The decisions of the board of regents may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined expect upon application to such appellate division after notice to the department and to the attorney general and upon a showing that the petitioner has a substantial likelihood of success.

6. The provisions of subdivisions one through four of this section shall not be applicable to proceedings in cases of professional misconduct involving the medical profession.

7. Notwithstanding any other provisions of the law, persons who assist the department as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice, shall not be liable for damages in any civil action or proceeding as a result of such assistance, except upon proof of actual malice. The attorney general shall defend such persons in any such action or proceeding, in accordance with section seventeen of the public officers law.

8. The files of the department relating to the investigation of possible instances of professional misconduct, or the unlawful practice of any profession licensed by the board of regents, or the unlawful use of a professional title or the moral fitness of an applicant for a professional license or permit, shall be confidential and not subject to disclosure at the request of any person, except upon the order of a court in a pending action or proceeding. The provisions of this subdivision shall not apply to documents introduced in evidence at a hearing held pursuant to this chapter and shall not prevent the department from sharing information concerning investigations with other duly authorized public agencies responsible for professional regulation or criminal prosecution.

§ 6510a. Proceedings in cases of professional misconduct involving the medical profession

1. Prehearing procedures, hearing procedures and summary action procedures. Prehearing procedures, hearing procedures and summary action procedures in cases of professional misconduct involving the medical profession shall be conducted pursuant to the provisions of Title II-A of article two of the public health law.

2. Regents decision and order. Within sixty days of the transfer of a case of professional misconduct involving the medical profession by the commissioner of health pursuant to section two hundred thirty of the public health law, the board of regents (a) shall consider the transcript, exhibits and other evidence, if any, the findings, conclusions and recommendation of the committee on professional misconduct and the recommendation of the commissioner of health, (b) shall decide whether the licensee is guilty or not guilty on each charge, (c) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this article, and (d) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board.

3. Time limitations.

a. No failure to comply with a provision of this section requiring that a specified action shall be taken within a specified period of time shall affect the validity of the action taken.

b. The time limitations specified in this section for the completion of specified actions may be extended, upon application of a licensee or his attorney, for good cause shown, upon application made prior to the expiration of such time limitations.

4. Court review procedures. The decisions of the board of regents may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined except upon application to such appellate division after notice to the attorney general.

§ 6511. Penalties for professional misconduct

The penalties which may be imposed by the board of regents on a present or former licensee found guilty of professional misconduct (under the definitions and proceedings prescribed in sections sixty-five hundred nine, sixty-five hundred ten and sixty-five hundred ten-a of this article) are: (1) censure and reprimand, (2) suspension of license, (a) wholly, for a fixed period of time; (b) partially, until the licensee successfully completes a course of retraining in the area to which the suspension applies; (c) wholly, until the licensee successfully completes a course of therapy or treatment prescribed by the regents; (3) revocation of license, (4) annulment of license or registration, (5) limitation on registration or issuance of any further license, (6) a fine not to exceed ten thousand dollars, upon each specification of charges of which the respondent is determined to be guilty, (7) a requirement that a licensee pursue a course of education or training, and (8) a requirement that a licensee perform up to one hundred hours of public service, in a manner and at a time and place as directed by the board. The board of regents may stay such penalties in whole or in part, may place the licensee on probation and may restore a license which has been revoked. Any fine imposed pursuant to this section or pursuant to subdivision two of section sixty-five hundred ten of this article may be sued for and recovered in the name of the people of the state of New York in an action brought by the attorney general. In such action the findings and determination of the board of regents or of the violations committee shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed.

SUBARTICLE 4. UNAUTHORIZED ACTS

§ 6512. Unauthorized practice a crime

1. Anyone not authorized to practice under this title who practices or offers to practice or holds himself out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who practices any profession as an exempt person during the time when his professional license is suspended, revoked or annulled, or who aids or abets an unlicensed person to practice a profession, or who fraudulently sells, files, furnishes, obtains, or who attempts fraudulently to sell, file, furnish or obtain any diploma, license, record or permit purporting to authorize the practice of a profession, shall be guilty of a class E felony.

2. Anyone who knowingly aids or abets three or more unlicensed persons to practice a profession or employs or holds such unlicensed persons out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who knowingly aids or abets three or more persons to practice any profession as exempt persons during the time when the professional licenses of such persons are suspended, revoked or annulled, shall be guilty of a class E felony.

§ 6513. Unauthorized use of a professional title a crime

1. Anyone not authorized to use a professional title regulated by this title, and who uses such professional title, shall be guilty of a class A misdemeanor.

2. Anyone who knowingly aids or abets three or more persons not authorized to use a professional title regulated by this title, to use such professional title, or knowingly employs three or more persons not authorized to use a professional title regulated by this title, who uses such professional title in the course of such employment, shall be guilty of a class E felony.

§ 6514. Criminal proceedings

1. All alleged violations of sections sixty-five hundred twelve or sixty-five hundred thirteen of this article shall be reported to the department which shall cause an investigation to be instituted. If the investigation substantiates that violations exist, such violations shall be reported to the attorney general with a request for prosecution.

2. The attorney general shall prosecute such alleged offenses in the name of the state, provided, however, in the event of alleged violations of article one hundred fifty-five of this title occurring in cities with a population of one million or more, a district attorney may prosecute such alleged offenses in the name of the state provided, however, that any district attorney may prosecute such offenses where they are incidental to a criminal prosecution instituted by him under other statutes.

3. All criminal courts having jurisdiction over misdemeanors are hereby empowered to hear, try and determine alleged violations under this title, which constitute misdemeanors, without indictment and to impose applicable punishment of fines or imprisonments or both. It shall be necessary to prove in any prosecution under this title only a single prohibited act or a single holding out without proving a general course of conduct.

4. A proceeding before a committee on professional conduct shall not be deemed to be a criminal proceeding within the meaning of this section.

§ 6515. Restraint of unlawful acts

Where a violation of this title is alleged to have occurred, the attorney general or, in the event of alleged violations of article one hundred fifty-five of this title occurring in cities having a population of one million or more, the corporation counsel may apply to the supreme court within the judicial district in which such violation is alleged to have occurred for an order enjoining or restraining commission or continuance of the unlawful acts complained of. The court shall have jurisdiction of the proceedings and shall have power to grant such temporary relief or restraining order as it deems just and proper. In any such proceeding it shall be necessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if such order were not granted. The remedy provided in this section shall be in addition to any other remedy provided by law or to the proceedings commended against a licensee under this title.

THE EDUCATION LAW
ARTICLE 132
CHIROPRACTIC

Section 6550. Introduction.

6551. Definition of practice of chiropractic.

6552. Practice of chiropractic and use of title "chiropractor".

6553. State board for chiropractic.

6554. Requirements for a professional license.

6555. Exempt persons.

6556. Special provisions.

§ 6550. Introduction. This article applies to the profession of chiropractic. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6551. Definition of practice of chiropractic. 1. The practice of the profession of chiropractic is defined as detecting and correcting by manual or mechanical means structural imbalance, distortion, or subluxations in the human body for the purpose of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column.

2. a. A license to practice as a chiropractor shall not permit the holder thereof to use radio-therapy, fluoroscopy, or any form of ionizing radiation except X-ray which shall be used for the detection of structural imbalance, distortion, or subluxations in the human body.

b. The requirements and limitations with respect to the use of X-ray by chiropractors shall be enforced by the state commissioner of health and he is authorized to promulgate rules and regulations after conferring with the board to carry out the purposes of this subdivision.

c. Chiropractors shall retain for a period of three years all X-ray films taken in the course of their practice, together with the records pertaining thereto, and shall make such films and records available to the state commissioner of health or his representative on demand.

3. A license to practice chiropractic shall not permit the holder thereof to treat for any infectious diseases such as pneumonia, any communicable diseases listed in the sanitary code of the state of New York, any of the cardio-vascular-renal or cardio- pulmonary diseases, any surgical condition of the abdomen such as acute appendicitis, or diabetes, or any benign or malignant neoplasms; to operate; to reduce fractures or dislocations; to prescribe, administer, dispense or use in his practice drugs or medicines; or to use diagnostic or therapeutic methods involving chemical or biological means except diagnostic services performed by clinical laboratories which services shall be approved by the board as appropriate to the practice of chiropractic; or to utilize electrical devices except those devices approved by the board as being appropriate to the practice of chiropractic.

§ 6552. Practice of chiropractic and use of title "chiropractor". Only a person licensed or exempt under this article shall practice chiropractic or use the title "chiropractor".

§ 6553. State board for chiropractic. A state board for chiropractic shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eight members, including at least four licensed chiropractors, one licensed physician who is a doctor of medicine, one licensed physician who is a doctor of osteopathy, one educator who holds a doctorate or equivalent degree in anatomy, physiology, pathology, chemistry or microbiology and one public member. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 6554. Requirements for a professional license. To qualify for a license as a chiropractor, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including two years of preprofessional college study and completion of a four-year resident program in chiropractic, in accordance with the commissioner's regulations;

(3) Experience: meet no requirement as to experience;

(4) Examination: pass examinations satisfactory to the board and in accordance with the commissioner's regulations, in clinical chiropractic analysis, the practice of chiropractic, X-ray as it relates to chiropractic analysis, and examinations satisfactory to the department in anatomy, physiology, pathology, chemistry, microbiology, diagnosis, and the use and effect of X-rays.;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred dollars to the department for admission to a department conducted examination and for an initial license, a fee of fifty dollars for each reexamination, a fee of sixty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of sixty dollars for the biennial registration for the period ending December thirty-first, nineteen hundred eighty-three and a fee of ninety dollars for each triennial registration period commencing on and after January first, nineteen hundred eighty-four.

§ 6555. Exempt persons. Nothing in this article shall be construed to affect or prevent a student enrolled in a college of chiropractic in this state from engaging in all phases of clinical practice under supervision of a licensed chiropractor or physician in a curriculum registered by the department.

§ 6556. Special provisions. 1. Any chiropractor who holds a license stating that the holder is not authorized to use X-ray in his practice shall on each registration, continue to obtain a license so marked. Any chiropractor holding such a license may obtain a license permitting the use of X-ray provided he first passes an examination in the use and effect of X-ray satisfactory to the board and the department.

2. An applicant who graduated from a school of chiropractic prior to January first, nineteen hundred sixty-eight need not meet the two-year preprofessional college study requirement provided for in subdivision two of section sixty-five hundred fifty-four.

THE REGULATIONS OF THE COMMISSIONER OF EDUCATION
PART 59
GENERAL PROVISIONS

Section 59.1 Applicability. (a) As used in this Subchapter, license shall mean a permanent authorization, issued pursuant to Title VIII of the Education Law, to practice a profession or to use a professional title.

(b) The provisions of this Part shall apply to admission to the licensing examination and to the issuance of licenses in each of the professions supervised by the Board of Regents except as may otherwise be provided in this Subchapter with respect to specific professions.

59.2 Education requirements. An applicant for a professional license shall satisfy all education requirements before being admitted to a professional licensing examination. Education requirements for a professional license shall include any preprofessional education or experience required as a prerequisite for admission to a registered program of professional education. The department, in its discretion, may accept in satisfaction of a professional education requirement the completion of an approved or registered program or a program accredited by a professional accreditation organization acceptable to the department. The department, in its discretion, may also accept graduation by a transfer student from such a program provided such student has completed not less than the final year of professional education in such program subsequent to the date of approval, registration or accreditation of the program and approval of the accrediting organization by the department.

59.3 English proficiency requirement. An applicant for licensure whose application is based upon credit granted for the completion of courses of study in a country where English is not the principal language spoken shall demonstrate proficiency in English by passing an examination in English proficiency acceptable to the department or by passing a licensing examination acceptable to the department given in English.

59.4 Citizenship or immigration status requirements. In those professions where citizenship or immigration status is required for licensure, an applicant shall submit evidence satisfactory to the department of compliance with such requirement.

59.5 Professional examinations. (a) The department may develop its own examinations or may select in whole or in part examinations developed or administered by other organizations. Unless specifically authorized by the department, no examination shall be deemed acceptable which has been used in its entirety during the five years previous to the current administration.

(b) Applications for admission to a licensing examination including all required fees shall be completed and filed not less than 60 days prior to the examination. When the department finds that the application is complete and that the requirements for admission to an examination have been met, it will issue to the applicant an admission card which will include the date, time and place of the examination and entitle the applicant to admission thereto. If an application is denied or withdrawn in a timely manner, an applicant may obtain a refund of the first registration fee and a partial refund not exceeding fifty percent of the licensing fee. A request for such a refund shall be made in writing. Reapplication after receipt of a refund may be accepted only upon payment in full of all fees specified.

(c) For the purpose of identification for admission to the examination, the applicant shall present the current admission card with a photograph attached and, at the conclusion of the examination, return the card to the department representative conducting the examination. A candidate shall permit fingerprints to be taken during each part of an examination.

(d) Licensing examinations shall be held at times and places determined by the commissioner and conducted under the following conditions. Any candidate violating such conditions may be dismissed from the examination by the department representative, and the examination paper of such candidate shall be deemed a failure. At the discretion of the department, such candidate may be denied admission to subsequent licensing examinations.

(1) No candidate shall enter any examination more than 45 minutes after the scheduled admission time, nor shall any candidate leave the examination until 60 minutes have elapsed from the scheduled admission time. No candidate shall leave a department administered practical or clinical examination until dismissed by the chief examiner.

(2) Compensatory time may be granted candidates arriving late for an examination, at the discretion of the department.

(3) A candidate shall not obtain unauthorized possession of examination materials.

(4) During the examination, no candidate shall give or receive help, or communicate with any other candidate in any way, except upon the express permission of the department representative.

(5) A candidate shall bring into the examination room only such books and other materials as are indicated on the admission card and permitted by the department.

(6) A candidate shall not remove from the examination room any of the materials provided for an examination, and shall not reproduce or reconstruct any portion of the examination or answer paper, or aid in such reproduction or reconstruction by any means, unless authorized by the department. Such materials include examination booklets, individual examination questions, answer sheets or score sheets, instructions and any reference tables or papers which were provided by the department and which may have been used in the course of the examination.

(e) Papers will be scored and candidates notified of success or failure by the department or its designee. If the candidate has failed, the department will advise when and on what basis the candidate may be reexamined.

(f) The passing score in each component of each part of the licensing examination shall be determined as provided by law and shall be computed without rounding. Unless otherwise provided in the regulations pertaining to a specific profession, a candidate may retain credit for examination parts passed for a period not to exceed five years from the examination date. A candidate who is reexamined in a part already passed shall not retain credit for such part from earlier examinations. In those professions which use national or regional examinations, this subdivision shall apply whether or not the examination is taken in the State of New York.

(g) In those professions where reviews of examination papers are permitted, candidates will be allowed to review only those parts of the examination which they failed with a score of 65 or higher, except in those professions which permit candidates to pass on average. A request for review of an examination paper or score may be made in writing to the executive secretary of the appropriate state board not later than 30 days after examination grades are released by the department. Such request shall include detailed reasons justifying the review requested. A candidate shall not remove from the reviewing site any of the materials provided for the review of an examination given previously, and shall not reproduce or reconstruct any portion of the examination or the answer paper, or aid in such reproduction or reconstruction by any means, unless authorized by the department. No one other than the candidate will be permitted access to examination materials. Where examinations are offered under contract with testing agencies, reviews shall be consistent with these contracts, where applicable. All reviews shall be conducted at sites selected and supervised by the department or an authorized testing agency.

(h) After July 1, 1984, an applicant who has been admitted to a professional licensing examination conducted by the department and subsequently fails to appear for such an examination twice shall forfeit any remaining fee credits for that examination. The applicant, upon subsequently applying for readmission to that examination, shall pay all required admission fees.

59. 6 License by endorsement. An applicant for endorsement of a license issued by another jurisdiction shall establish that the applicant:

(a) meets all requirements of section 6506 (6) of the Education Law;

(b) has had satisfactory professional experience of at least two years following initial licensure, unless a different period is provided in the regulations pertaining to a particular profession;

(c) has not attempted unsuccessfully a licensing examination used by the State of New York either prior to or after making application for licensure by endorsement, unless such applicant has later passed a comparable licensing examination.

59. 7 Licenses and initial registrations. When the candidate fulfills all requirements for licensure, the department shall issue a first registration certificate and a license. The first registration shall be for the remainder of the applicable registration period, except that those persons initially licensed during the last four months of a registration period shall be registered for the succeeding registration period without an additional fee.

59. 8 Registration for professional practice. (a) Each licensee shall be responsible for registering with the department. Failure to register shall subject the practitioner to the late fee set forth in section 6502 (3) of the Education Law. Any practitioner who willfully refuses to register shall be subject to the penalties set forth in section 6511 of such law.

(b) A licensee not practicing or using a restricted title in New York State or an individual practicing only in a setting which is exempt from licensure in accordance with law may allow registration to lapse without being

subject to the late fee set forth in section 6502 of the Education Law, by notifying the department of their cessation of practice or exemption in the state. At such time as the licensee may choose to resume practice or enter practice in a non-exempt setting in New York State, a registration certificate may be issued upon the filing of a proper application and the payment of the required registration fee.

(c) Registration certificates shall be conspicuously displayed by each licensee in each office in which the profession is practiced. In instances where licensees regularly practice at more than one professional office, registration certificates shall be obtained for each office bearing the licensee's name and the exact address of each such office upon making proper application to the department and submitting a fee. Where practice is carried on in other than individual offices, each licensee shall have a current registration certificate available for inspection at all times.

(d) Beginning dates for two year (biennial) registration periods for each profession shall be as follows:

Professions	Beginning Dates
Professional Engineering, Land Surveying, Massage	11/1/80
Acupuncture, Medicine, Pharmacy, Physical Therapy, Physical Therapist Assistant	1/1/81
Registered Professional Nursing	9/1/81
Chiropractic, Veterinary Medicine, Animal Health Technology, Physician's Assistant, Specialist's Assistant	1/1/82
Social Work	3/1/82
Occupational Therapy, Speech Pathology, Audiology	4/1/82
Dentistry, Dental Hygiene	5/1/82
Optometry, Ophthalmic Dispensing, Certified Shorthand Reporting	7/1/82
Licensed Practical Nursing, Architecture, Landscape Architecture, Certified Public Accountant, Public Accountancy	9/1/82
Psychology	5/1/83
Podiatry	9/1/83
Occupational Therapy Assistant	11/1/83

(e) Beginning dates for new three-year (triennial) registration periods shall be as follows:

Professions	Beginning Dates
Professional Engineering, Land Surveying, Massage	11/1/82
Acupuncture, Medicine, Pharmacy, Physical Therapy, Physical Therapist Assistant	1/1/83
Registered Professional Nursing	9/1/83
Chiropractic, Veterinary Medicine, Animal Health Technology, Physician's Assistant, Specialist's Assistant	1/1/84
Social Work	3/1/84
Occupational Therapy, Speech Pathology, Audiology	4/1/84
Dentistry, Dental Hygiene	5/1/84
Optometry, Ophthalmic Dispensing, Certified Shorthand Reporting	7/1/84
Licensed Practical Nursing, Architecture, Landscape Architecture, Certified Public Accountant, Public Accountancy	9/1/84
Psychology	5/1/85
Podiatry	9/1/85
Occupational Therapy Assistant	11/1/85

(f) Each professional practitioner shall notify the department of any change of name or address in writing not later than 30 days after such change.

59. 9 Special service fees. The department will charge the following fees for special services not otherwise provided by Education Law:

(a) for the issuance of a trainee permit in ophthalmic dispensing, $15;

(b) for certification of completion of pharmacy internship, $10;

(c) for admission to the history section of the technical examination in landscape architecture, $50 and for each

subsequent reexamination, $50, the remainder of the fee set forth in Section 7324 of the Education Law to be paid prior to admission to the remainder of the examination;

(d) for certification of licensure or examination grades to another jurisdiction, $20;

(e) for certification in acupuncture of a licensed physician or dentist, $50;

(f) for the issuance of an additional registration certificate, $5;

(g) for the issuance of a letter of eligibility to undertake clinical clerkships, $30;

(h) for the issuance of a Medical Sciences Knowledge Profile (MSKP) or satisfactory equivalent examination certificate to undertake clinical clerkships, $20.

59. 10 Professional service corporations. (a) Applications to the State Education Department for the issuance of a certificate pursuant to Business Corporation Law section 1503 (b) (ii) shall be made by submitting to the department a fully executed certificate of incorporation which complies with the provisions of such section and of section 1512 of such law, and which sets forth or has annexed to it an affidavit of one of the original officers, directors or shareholders of the corporation setting forth the name of each individual who is to be one of the original shareholders, directors or officers of the corporation.

(b) If the name of a proposed professional service corporation contains the name of a deceased person, the certificate of incorporation, when submitted to the department for the issuance of a certificate pursuant to Business Corporation Law section 1503 (b) (ii) shall be accompanied by an affidavit of one of the subscribers to the certificate of incorporation establishing compliance with the provisions of Business Corporation Law section 1512 (a) (2).

(c) A certificate pursuant to Business Corporation Law section 1503 (b) (ii) may be issued when:

(1) the proposed name of the corporation appropriately describes the profession practiced and the services to be provided;

(2) if the proposed name of the corporation includes a reference to a specialized area of professional practice, satisfactory evidence is submitted of compliance with any provision of Part 29 of the Rules of the Board of Regents restricting or regulating the use of specialty titles or announcements of limitations of practice in the particular profession.

PART 73
CHIROPRACTIC

Section 73.1 Professional study of chiropractic. (a) To meet the professional education requirement, the applicant shall present evidence of the completion of not less than 60 semester hours of preprofessional postsecondary education including courses in general chemistry, organic chemistry, biology or zoology, and physics, and a program of chiropractic education consisting of either:

(1) the completion of a program of chiropractic education of not less than four academic years, or the equivalent thereof, registered by the department or accredited by an accrediting organization acceptable to the department; or

(2) the completion of not less than four academic years of chiropractic education satisfactory to the department, culminating in a degree, diploma or certificate in chiropractic recognized by the appropriate civil authorities of the country in which the school is located as acceptable for entry into practice in such country. To satisfy the professional study requirements pursuant to this paragraph, the applicant shall also complete not less than two academic years of study satisfactory to the department in a registered or accredited chiropractic school program including such subjects as may be necessary for certification by such program that the candidate is prepared to enter the New York State chiropractic licensing examination.

(b) Courses failed in a school of chiropractic, for which credit has been granted toward meeting the requirements of another school of chiropractic may not be counted toward meeting the requirements of this Part.

(c) A program of chiropractic education shall be considered completed upon certification of completion by the school in which such program was taken and proof that the applicant has been awarded the appropriate chiropractic degree, diploma or certificate.

73. 2 Licensing examinations. (a) Content. The examination shall consist of three parts:

(1) Part I – Basic science areas related to chiropractic.

(2) Part II – Clinical areas related to chiropractic.

(3) Part III – Clinical competence examination the scope and content of which shall be satisfactory to the State Board for Chiropractic and the Department.

(b) The department may accept grades acceptable to the State Board for Chiropractic on an examination of the National Board of Chiropractic Examiners as meeting requirements of Parts I and II of the licensing examination, provided the grades were obtained on examinations administered subsequent to September 1, 1977.

(c) Special examination conditions.

(1) An applicant who has completed not less than two academic years in a program of chiropractic education registered by the department, or accredited by an accrediting organization acceptable to the department, may be admitted to Part I of the examination. Such applicant shall meet all requirements for admission to the licensing examination, except for the completion of professional education.

(2) An applicant attending a program of chiropractic education registered by the department or accredited by an accrediting organization acceptable to the department, may be admitted to Part II and Part III during the last academic year of study.

(3) Admission to Part III of the examination shall require evidence of successful completion of Parts I and II of the examination.

(4) A candidate who does not complete the educational requirements and receive the degree within one calendar year after completing the licensing examination shall be reexamined in all subjects in Part III, and shall receive satisfactory grades subsequent to completion of educational requirements for licensure.

(d) Retention of credit. A candidate may retain credit for parts of the examination passed for a period not to exceed three years from the examination date. After that time, such candidate shall be reexamined in all parts.

(e) Passing score. The passing score in each subject shall be 75.0 as determined by the State Board for Chiropractic.

73.3 Electrical devices. Pursuant to section 6551 (3) of the Education Law, licensees may use any electrical devices essential to their practice provided such devices have not been disapproved by the Federal Food and Drug Administration or its successors, or by the department.

73.4 Laboratories. Pursuant to section 6551 (3) of the Education Law, a licensee may use for diagnostic purposes those clinical laboratory services which are contained within the required coursework of all registered doctoral programs in chiropractic in this State and the study of which the licensee has successfully completed in a course of study satisfactory to the department, provided that nothing herein contained shall be construed as expanding the definition of the practice of chiropractic.

RULES OF THE BOARD OF REGENTS
PART 17
DISCIPLINARY PROCEEDINGS IN THE PROFESSIONS

Section 17.1 Complaints or other information
17.2 Investigation
17.3 Prosecution or settlement of disciplinary proceedings
17.4 Reports
17.5 Consent orders
17.6 Surrender of license
17.7 Violation of probation
17.8 Hearing panel; administrative officers
17.9 Summary suspensions

Section 17.1 Complaints or other information. All complaints or other information relating to licensees authorized to practice a profession under title VIII of the Education Law shall be referred to the executive director of the Office of Professional Discipline.

17.2 Investigation. The executive director of the Office of Professional Discipline or that officer's designee shall, in matters involving possible professional misconduct, initiate an investigation of each such complaint or other information.

17.3 Prosecution or settlement of disciplinary proceedings. Prosecution or settlement of disciplinary proceedings shall be conducted as provided in title VIII of the Education Law, and as provided in this Part.

17.4 Reports. The executive director of the Office of Professional Discipline or that officer's designee shall submit a report by April first of each year on the status of cases investigated during the previous year, as well as on the disposition of any criminal or civil matters processed through the office, to the chairman of the State Board for each of the professions supervised by the Board of Regents.

17.5 Consent orders. Disciplinary proceedings conducted pursuant to the provisions of title VIII of the Education Law may be disposed of in accordance with the following procedure:

(a) A licensee who is under investigation, or against whom charges have been voted, who admits guilt to at least one of the acts of misconduct alleged or charged, in full satisfaction of all allegations or charges, or who does not contest the allegations or charges or who cannot successfully defend against at least one of the acts of misconduct alleged or charged, shall notify the executive director of the Office of Professional Discipline or the director's designee.

(b) If the executive director of the Office of Professional Discipline or the director's designee, a designated member of the State Board for the applicable profession, and the licensee agree to a statement by the licensee admitting guilt to one or more of the allegations or charges or setting forth a decision not to contest the allegations or charges or stating that the licensee cannot successfully defend against such allegations or charges and agreeing to a proposed penalty, and if a designated member of the Board of Regents thereafter agrees to such statement and proposed penalty, a written application, signed by all the above, shall be submitted by the licensee to the Board of Regents based upon the statement and proposed penalty consenting to the issuance of an order of the Commissioner of Education effectuating such penalty. The provisions of this section shall also apply to licensees and registrants subject to section 230 of the Public Health Law and to article 137 of the Education Law. With respect to licensees subject to section 230 of the Public Health Law, the agreement of the director of the Office of Professional Medical Conduct or that officer's designee, and of the Commissioner of Health or his or her designee, to the statement and proposed penalty and their signatures on the application shall be required in lieu of the agreement and signature of the executive director, Office of Professional Discipline. With respect to licensees subject to the provisions of section 230 of the Public Health Law, the term State Board as used in this section means the State Board for Professional Medical Conduct. With respect to licensees and registrants subject to article 137 of the Education Law, the agreement of the executive secretary of the State Board of Pharmacy to the statement and proposed penalty and his or her signature on the application shall also be required.

(c) The application shall be in such form and shall contain such substance as is acceptable to the executive director of the Office of Professional Discipline or the director's designee.

(d) In the event an application is not granted by the Board of Regents, nothing contained therein shall be binding upon the licensee or construed to be an admission of any act of misconduct alleged or charged, and such application shall not be used against the licensee in any way. Any such application shall be kept in strict confidence during the pendency of the disciplinary proceeding. In addition, such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

(e) In the event the Board of Regents grants the application, the Commissioner of Education shall issue an order in accordance therewith.

17.6 Surrender of license. Disciplinary proceedings conducted pursuant to the provisions of title VIII of the Education Law may be disposed of in accordance with the following procedure:

(a) A licensee who is under investigation or against whom charges have been voted, who wishes to surrender his or her license to practice any of the professions enumerated in title VIII, shall notify the executive director of the Office of Professional Discipline or that officer's designee.

(b) An application to surrender a license shall be based upon a statement that the licensee admits guilt to at least one of the acts of misconduct alleged or charged, in full satisfaction of all allegations or charges, or does not contest the allegations or charges, or cannot successfully defend against at least one of the acts of misconduct alleged or charged. If the executive director or the director designee, a designated member of the State Board for the applicable profession, and the licensee agree to such statement, and if a designated member of the Board of Regents thereafter agrees to such statement, a written application, signed by the licensee, shall be submitted to the Board of Regents. The application shall be in such form and shall contain such substance as is acceptable to the executive director of the Office of Professional Discipline or the director's designee. The provisions of this section shall also apply to licensees and registrants subject to section 230 of the Public Health Law and to article 137 of the Education Law. With respect to licensees subject to section 230 of the Public Health Law, the agreement of the director of the Office of Professional Medical Conduct or that officer's designee and the Commissioner of Health or his or her designee to the statement, and their signature on the application, shall be required in lieu of the agreement and signature of the executive director of the Office of Professional Discipline. With respect to licensees subject to the provisions of section 230 of the Public Health Law, the term State Board as used in this section means the State Board for Professional Medical Conduct. With respect to licensees and registrants subject to article 137 of the Education Law, the agreement of the executive secretary of the State Board of Pharmacy to the statement and his or her signature on the application shall also be required.

(c) In the event the application is not granted by the Board of Regents, nothing contained therein shall be binding upon the licensee or construed to be an admission of any act of misconduct alleged or charged, and such application shall not be used against the licensee in any way. The application shall be kept in strict confidence during the pendency of the disciplinary proceeding. In addition, any such denial by the Board of Regents shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

(d) In the event the Board of Regents grants the application, the Commissioner of Education shall issue an order in accordance therewith. The order shall include a provision that the licensee may not apply for the restoration of the license affected by the granted application until at least one year has elapsed from the effective date of such order.

17.7 Violation of probation. (a) Upon the receipt of information indicating that the respondent may be in violation of any of the terms or conditions of respondent's probation, the department shall conduct an investigation.

(b) The executive director of the Office of Professional Discipline shall review the results of the investigation and if the executive director determines that a violation of probation proceeding is warranted, the executive director shall give notice to the respondent, by letter, of the facts forming the basis of the alleged violation of respondent's probation. The respondent, in said letter, shall be requested to indicate whether there is any dispute as to the facts, and shall be informed that if respondent disputes any of the facts the respondent shall be entitled to a hearing thereon.

(c) If the respondent does not dispute the facts forming the basis of the alleged violation of probation, the matter shall be submitted to the Regents Review Comittee for its review and recommendation(s) as to whether, based upon the undisputed facts, there has been a viola-

tion of the terms or conditions of respondent's probation and, if so, as to the measure of discipline to be imposed upon the respondent.

(d) If the respondent disputes any of the facts forming the basis of the alleged violation of probation, the respondent shall be afforded a hearing before a hearing officer appointed by the commissioner to hear and make findings of fact, conclusions of law and recommendation(s). The department shall give the respondent at least 10 days' notice of the hearing, 15 if by mail. The evidence in support of the application shall be presented by counsel on behalf of the department and the respondent shall also have the right to be represented by counsel. The department and the respondent have the right to produce witnesses and other evidence, to cross-examine witnesses, and to examine any other evidence produced at the hearing. A stenographic record of the hearing will be made, and the hearing officer shall not be bound by the rules of evidence, but the findings of fact and conclusions of law of the hearing officer shall be based upon substantial evidence.

(e) The report of the hearing officer shall be reviewed by the Regents Review Committee.

(f) The Regents Review Committee shall notify the respondent, at least seven days before its meeting, of the time and place of such meeting, and shall also notify the respondent of the opportunity to appear in person and to be represented by counsel at such meeting.

(g) The Regents Review Committee shall transmit the report of the hearing officer and a written report of its review to the Board of Regents. The final determination shall be made by the Board of Regents, and the commissioner shall issue an order implementing such determination.

(h) The measure of discipline to be imposed for any violation of probation may be to continue the respondent on probation for a period in addition to the period of probation imposed in the original order, or to terminate the probation, vacate the stay of execution, and impose any measure of discipline authorized by section 6511 of the Education Law. A violation of probation shall constitute unprofessional conduct, and may constitute the basis for proceedings under either the provisions of section 6510 of the Education Law or of this Part.

17.8 Hearing panel; administrative officers. Findings of fact, recommendations as to penalties to be imposed, and any other actions taken by a hearing panel in disciplinary proceedings, except as hereinafter set forth, shall be made by majority vote. Any determination of guilt shall require a minimum of a four fifths vote of the hearing panel. An administrative officer, admitted to practice as an attorney in the State of New York, shall rule on all motions, procedures and other legal objections, and draft a report which shall reflect the determination and recommendation of the panel and be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

17.9 Summary suspensions. (a) If the executive director of the Office of Professional Discipline or that officer's designee believes that the public health, safety or welfare imperatively requires emergency action against a professional license, certificate, registration, permit or other authorization of the licensee to practice under title VIII of the Education Law, the executive director or the director's designee may make an application, on behalf of the department, to the Board of Regents for the summary suspension of said authorization pending the prompt institution prosecution and completion of formal disciplinary proceedings as provided under section 6510 of the Education Law.

(b) Summary suspension proceedings shall be commenced by the service on the licensee of a notice of hearing and a verified petition. The notice of hearing shall state the time and place or oral argument on the application for summary suspension and the regent designated by the chancellor to hear the matter, and shall include a copy of this rule. The notice of hearing and petition shall be personally served upon the licensee no later than five days prior to the date set for oral argument. If personal service cannot be made after due diligence, the notice of hearing and petition may be served by certified mail, to the licensee's last known address, not less than eight days prior to the date set for oral argument. The petition shall set forth the basis for the application and shall include sworn statements upon personal knowledge and/or exhibits demonstrating probable cause to believe that respondent has committed professional misconduct and that the public health, safety or welfare imperatively requires emergency action to summarily suspend respondent's license. A verified answer and any sworn statements and supporting exhibits may be served by respondent upon the executive director of the Office of Professional Discipline or that officer's designee no later than two days prior to the date set for oral argument. The executive director or designee may serve a verified reply, together with any sworn statement and supporting exhibits, to the answer no later than the day prior to the date of oral argument. The answer and/or reply may be served by certified mail by mailing to the addressee no later than three and two days, respectively, prior to the date set for oral argument. The petition, answer and reply, together with any sworn statement and supporting exhibits, shall be transmitted at the time of service of each paper to the regent designated to hear the case.

Saturdays, Sundays and legal holidays shall be excluded in calculating the periods of time set forth in this subdivision.

(c) At the oral argument, the Office of Professional Discipline and respondent and/or his or her attorney shall have the right to be heard, but no testimony shall be taken and no transcript of oral arguments shall be required. No further papers shall be submitted at the oral argument except by permission of the regent designated to conduct the proceeding.

(d) The regent designated by the chancellor to conduct the proceeding shall submit a written report of his or her conclusions and recommendation(s) to the Board of Regents, which shall determine whether to grant or deny the application for summary suspension. A determination by the Board of Regents granting the application must be based upon a finding that the public health, safety or welfare imperatively requires emergency action.

(e) Any determination of the Board of Regents shall be without prejudice to the department or licensee in any subsequent formal disciplinary proceeding.

PART 24
PROFESSIONAL LICENSING

Section 24.1 Committee on the Professions; procedures

24.2 Preprofessional qualifications

24.3 Professional qualifications

24.4 Admission to a licensing examination

24.5 Indorsement of a professional license

24.6-24.7 (Reserved)

24.8 Determination of good moral character

Section 24.1 Committee on the Professions; procedures. (a) The Committee on the Professions heretofore established by the Board of Regents, consisting of three department officers appointed by the Board of Regents, is continued and is hereby designated by the Board of Regents pursuant to chapter 130 of the Laws of 1969 to act on professional licensing applications in accordance with this Part.

(b) An applicant may apply to the Committee on Professions for reconsideration of its action. Upon such reconsideration the committee may modify its determination and shall notify the applicant of such determination. If upon reconsideration the Committee on Professions does not modify its action, the application shall be submitted to the Board of Regents for final determination.

(c) Petitions for the restoration or reinstatement of a professional license or certificate after review by the Committee on the Professions shall be submitted to the Board of Regents for determination. Such petitions shall be submitted in six copies, the original being signed and verified, and shall contain a concise statement of the circumstances leading to the loss of license or certificate, the petitioner's activities since such loss, and the steps taken toward rehabilitation. Five letters of reference in six copies each, the original being signed and verified, shall be submitted from individuals who have knowledge of the loss of license or certificate and the petitioner's subsequent activities. At least one year shall have elapsed from the date of service of the order of revocation or annulment, or the denial of restoration or reinstatement by vote of the Board of Regents, for the acceptance by the department of a petition to the Board of Regents, for the acceptance by the department of a petition to the Board of Regents for restoration or reinstatement of a license or certificate.

24.2 Preprofessional qualifications. In lieu of the removal of preprofessional deficiencies in individual subjects up to a maximum of six semester hours, the Committee on the Professions may accept graduation from a professional program which is either registered by the department or nationally accredited.

24.3 Professional qualifications. As the equivalent of a professional program registered by the department, the Committee on the Professions may accept a professional program which is:

(a) nationally accredited; or

(b) certified by an institution offering a program registered by the department to be the substantial equivalent of the registered program; or

(c) certified by an institution offering a nationally accredited program to be the substantial equivalent of the nationally accredited program.

24.4 Admission to a licensing examination. For the admission of a foreign veterinary graduate to the licensing examination in veterinary medicine, the Committee on the Professions shall require completion of not less than the equivalent of six academic years of combined preprofessional and professional study and a doctoral degree from a veterinary school whose program meets standards satisfactory to the department and the Board of Veterinary Examiners.

24.5 Indorsement of a professional license. For full or partial indorsement of a license or certificate, the Committee on the Professions shall require eligibility for admission to the licensing examination, satisfactory performance on a licensing examination acceptable in whole or part to the appropriate board of examiners, not less than five years of professional experience or practice satisfactory to such board, and the passing of such subjects, if any, of the New York State licensing examination which are considered necessary by such board to

meet its standards, provided that a lesser period of professional experience or practice, or no professional experience or practice, shall be required where consistent wich such requirements contained in the article of the Education Law relating to a particular profession.

24.8 Determination of good moral character. An applicant for authorization to practice a profession under title VIII of the Education Law may appeal to the Committee on the Professions for a review of an adverse determination, after a hearing, of a panel of the applicable professional State board in accordance with the provisions of Part 28 of this Chapter. The provisions of subdivision (b) of section 24. 1 of this Part shall not apply to any determination rendered by the Committee on the Professions under Part 28 of this Chapter, and such determination under Part 28 shall be final.

PART 28
DETERMINATION OF GOOD MORAL CHARACTER IN THE PROFESSIONS

Section 28.1 Determination of good moral character
28.2 Information
28.3 Investigation
28.4 Review
28.5 Hearing
28.6 Appeal
28.7 Reapplication

Section 28.1 Determination of good moral character. The determination of whether an applicant for authorization to practice a profession, under title VIII of the Education Law, is of good moral character shall be made in accordance with the procedures specified in this Part.

28. 2 Information. All information indicating that an applicant has been convicted of a crime, or has committed an act which raises a reasonable question as to the applicant's moral character, shall be referred to the executive director of the Office of Professional Discipline or his or her designee.

28.3 Investigation. The executive director of the Office of Professional Discipline, or his or hr designee, shall arrange for a full and complete investigation of the circumstances surrounding such conviction or act. If it is determined that a reasonable question exists as to the applicant's moral character, then the executive director, or his or her designee, shall submit the results of the investigation, including any letters of reference from peers or others which may have been submitted by the applicant, to a panel of the appropriate professional State Board for its review. The panel shall consist of three or more members of the State Board.

28.4 Review. Upon such review, the panel, by majority vote, may conclude in favor of the applicant to the effect that the moral character of the applicant is adequate for licensure, thereby fulfilling that licensure requirement, and the applicant and the director of the Division of Professional Licensing Services shall be notified of such conclusion by the Office of Professional Discipline. If, upon such review, the panel concludes, by a majority vote, that a substantial question exists as to the moral character of the applicant, the applicant shall be notified thereof. Upon the written request of the applicant, within 30 days after receipt of such notice, the department shall schedule a hearing on such question.

28.5 Hearing. The applicant shall be given 15 days' notice, by mail, of the time and place of the hearing and a statement of the matters asserted which raised the question of the applicant's moral character. The applicant may be represented at the hearing by an attorney, may cross-examine witnesses, may produce witnesses, and may present evidence in support of the applicant's good moral character. The hearing, at which a verbatim record shall be taken, shall take place before a panel consisting of three or more members of the appropriate professional State Board, and before an administrative officer admitted to practice as an attorney in the State of New York, designated by the department. Such administrative officer shall have authority to rule on all motions, procedures and other legal objections, but shall not be entitled to vote in the determination of the panel. The determination of the panel shall be made by a majority vote of the panel and shall be rendered in a written report which shall be drafted by the administrative officer, shall reflect the determination and recommendations of the panel, and shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. Copies of the report shall be forwarded to the director of the Division of Professional Licensing Services and to the applicant.

28.6 Appeal. The applicant or the executive director of the Office of Professional Discipline may appeal the determination of the panel concerning the licensure requirement of good moral character by filing a written notice of appeal therefrom with the Committee on the Professions within 30 days after service of the report of the panel upon the party taking the appeal. In the event no appeal is taken from the determination of the panel, the determination of the panel shall be final. In the event either party appeals from the determination of the panel, the appellant may submit a brief to the Committee on the Professions and the opposing party within 30 days after filing the notice of appeal. An answering brief may be filed by the opposing party with the Committee on the Professions within 20 days after the receipt by the

opposing party of the brief submitted by the appellant. The Committee on the Professions may affirm, reverse or modify the determination of the panel and/or make such other determination as it may deem just and proper under the circumstances. The determination of the Committee on the Professions shall be final and copies thereof shall be forwarded to the applicant and to the executive director of the Office of Professional Discipline.

28.7 Reapplication. Whether or not the applicant appeals from the determination of the panel, the applicant may reapply for licensure to the director of the Division of Professional Licensing Services after the expiration of 18 months from the date of service of the report of the panel.

RULES OF THE BOARD OF REGENTS ON UNPROFESSIONAL CONDUCT
PART 29

(Statutory authority: Education Law §6506)

Sec.

29.1 General provisions for all professions

29.2 General provisions for health professions

29.3 General provisions for design professions

29.4 Special provisions for the profession of medicine

29.5 Special provisions for the professions of dentistry and dental hygiene

29.6 Special provisions for the profession of veterinary medicine

29.7 Special provisions for the profession of pharmacy

29.8 Special provisions for the profession of optometry

29.9 Special provisions for the profession of ophthalmic dispensing

29.10 Special provisions for the profession of public accountancy

29.11 Special provisions for the profession of certified shorthand reporting

29.12 Special provisions for the profession of psychology

29.13 Special provisions for the profession of massage

Section 29.1 General provisions for all professions.

(a) Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.

(b) Unprofessional conduct in the practice of any profession licensed or certified pursuant to title VIII of the Education Law shall include:

(1) willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession;

(2) exercising undue influence on the patient or client, including the promotion of the sale of services, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party;

(3) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services;

(4) permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a professional licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law;

(5) conduct in the practice of a profession which evidences moral unfitness to practice the profession;

(6) willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so;

(7) failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;

(8) revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law;

(9) practicing or offering to practice beyond the scope permitted by law, or accepting and performing

professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

(10) delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them;

(11) performing professional services which have not been duly authorized by the patient or client or his or her legal representative;

(12) advertising or soliciting for patronage that is not in the public interest:

(i) Advertising or soliciting not in the public interest shall include but not be limited to advertising or soliciting that:

(a) is false, fraudulent, deceptive, misleading, sensational or flamboyant;

(b) represents intimidation or undue pressure;

(c) uses testimonials;

(d) guarantees any service;

(e) makes any claim relating to professional services or products or the cost or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

(f) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof;

(g) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product;

(ii) The following shall be deemed appropriate means of informing the public of the availability of professional services:

(a) informational advertising not contrary to the foregoing prohibitions; and

(b) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that there is an additional charge for related services which are an integral part of the overall service being provided by the licensee and the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect;

(iii) (a) all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, or videotape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department or in the case of physicians, physician's and specialist's assistants, the Department of Health;

(b) a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

(iv) No demonstrations, dramatizations or other portrayals of professional practice shall be permitted in advertising on radio or television;

(13) failing to respond within 30 days to written communications from the Education Department or the Department of Health and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from either department by registered or certified mail, with return receipt requested, to the address appearing in the last registration the period of 30 days shall commence on the date of delivery to the licensee, as indicated by the return receipt.

(14) violating any term of probation or condition or limitation imposed on the licensee by the Board of Regents pursuant to Education Law section 6511.

29.2 General provisions for health professions.

(a) Unprofessional conduct shall also include, in the professions of:

medicine	ophthalmic dispensing
acupuncture	psychology
physical therapy	social work
physician's assistant	massage
specialist's assistant	occupational therapy
chiropractic	speech pathology
dentistry	audiology
dental hygiene	nursing
podiatry	(registered professional
optometry	nurse, licensed
pharmacy	practical nurse):

(1) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;

(2) willfully harassing, abusing or intimidating a patient either physically or verbally;

(3) failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of 21 years;

(4) using the word "Doctor" in offering to perform professional services without also including the profession in which the licensee holds a doctorate;

(5) failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;

(6) upon a patient's written request, failing to make available to a patient, or, to another licensed health practitioner consistent with that practitioner's authorized scope of practice, copies of the record required by paragraph (3) of this subdivision and copies of reports, test records, evaluations or X-rays relating to the patient which are in possession or under the control of the licensee, or failing to complete forms or reports required for the reimbursement of a patient by a third party. Reasonable fees may be charged for such copies, forms or reports, but prior payment for the professional services to which such records relate may not be requried as a condition for making such reports available. A practitioner may, however, withhold information from a patient if, in the reasonable exercise of his or her professional judgment, he or she believes release of such information would adversely affect the patient's health, and this section shall not require release, to the parent or guardian of a minor, of records or information relating to venereal disease or abortion except with the minor's consent. This provision shall apply in lieu of section 29.1(b)(7) of this Part;

(7) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(8) ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;

(9) claiming or using any secret or special method of treatment which the licensee refuses to divulge to the State Board for the profession;

(10) failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to the Education Law, while practicing as an employee or operator of a hospital, clinic, group practice or multiprofessional facility, or at a commercial establishment offering health services to the public;

(11) entering into an arrangement with the pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions;

(12) with respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law, failing to post conspicuously at the site of such practice the names and licensure field of all of the principal professional licensees engaged in practice at that site (i.e., principal partners, officers or principal shareholders).

OTHER REGULATIONS

All practitioners should be familiar with regulations of other governmental bodies that affect practice such as the Health Department, Workers' Compensation and the Insurance Department.

PHYSICAL THERAPY

Article 131A of the Education Law limits the use of the terms physical therapy and physiotherapy to those licensed under that section of the law. Therefore, chiropractors may *not* refer to the use of adjunctive treatments as physical therapy or physiotherapy.

CLINIC – CENTER

Counsel to the Education Department has informed us that it is *not* permissible for practitioners to use the terms clinic or center.

APPROVED CHIROPRACTIC COLLEGES

As of July 1, 1984, new regulations apply relative to the acceptance of chiropractic graduates for licensure in New York State.

Persons who matriculate in chiropractic colleges after July 1, 1984 will be required to graduate from a school that holds full accreditation from the Council on Chiropractic Education and must have spent at least the final year in a program having full accreditation.

Persons who matriculated in chiropractic colleges prior to July 1, 1984, will be accepted for examination provided they graduated from a chiropractic college holding recognized candidate for accreditation or full accreditation status from the Council on Chiropractic Education even though that graduation may occur after July 1, 1984.

Below is a list of approved chiropractic colleges and their appropriate date after which graduation is acceptable.

CANADIAN MEMORIAL CHIROPRACTIC COLLEGE	4/1/83
*CLEVELAND CHIROPRACTIC COLLEGE (Kansas City)	6/79
*CLEVELAND CHIROPRACTIC COLLEGE (Los Angeles)	12/1/80
*LIFE CHIROPRACTIC COLLEGE	9/1/79
LIFE CHIROPRACTIC COLLEGE – WEST	9/30/83
*LOGAN COLLEGE OF CHIROPRACTIC	4/16/77
*LOS ANGELES COLLEGE OF CHIROPRACTIC	8/26/75
*NATIONAL COLLEGE OF CHIROPRACTIC	9/1/74
*NEW YORK CHIROPRACTIC COLLEGE	10/1/76
*NORTHWESTERN COLLEGE OF CHIROPRACTIC	8/26/75
*PALMER COLLEGE OF CHIROPRACTIC	10/16/76
*PALMER COLLEGE OF CHIROPRACTIC – WEST	6/1/82
PASADENA COLLEGE OF CHIROPRACTIC	8/1/82
*TEXAS CHIROPRACTIC COLLEGE	8/26/82
*WESTERN STATES CHIROPRACTIC COLLEGE	5/14/76

* Fully accredited by Council on Chiropractic Education

It shall be the policy of the Department to accept for licensure purposes, graduates of colleges who have completed the last academic year of their professional education in a program acceptable to the Department. The last year must be subsequent to the date of program registration or in the instance of schools outside New York State, subsequent to the date upon which the Council on Chiropractic Education granted accreditation status to the program. The applicable graduation date shall not be earlier than August 26, 1975 which is one year after the date on which CCE was accepted by the U.S. Office of Education. This policy shall be effective for all applications for examination received after July 1, 1984.

As other colleges may gain accreditation by the CCE, their graduates will be accepted according to dates established based on the granting of accreditation by the CCE. Loss of accreditation will, of course, mean that persons graduating during that period of lost accreditation will not have completed an acceptable program.

New York State Education Department
New York State Board for Chiropractic

Reference Texts for the Clinical Competence Examination
Effective February 1, 1984

AUTHOR	NAME OF TEXT	PUBLISHER
1. Hoppenfeld	Physical Examination of Spine and Extremeties	Appleton-Century Crofts Copyright – 1976
2. Prior	Physical Diagnosis	Mosby – 5th Edition
3. Chusid	Corrective Neuroanatomy & Functional Neurology	Lange Publisher 17th Edition
4. Bates	A Guide to Physical Examination	Lippincott – 2nd Edition 1979
5. Mazion	Illustrated Manual of Orthopedic Signs, Tests, Maneuvers	Daniels – 1st Edition 1209 29th St. Orlando, FL 32805
6. Mazion	Neurological Reflexes, Signs, Tests	Dr. J. M. Mazion 5 Bougainvilla Dr. Cocoa Beach, FL 32931
7. Williams	Gray's Anatomy – 35th Edition	W. B. Saunders W. Washington Sq. Philadelphia, PA 19105
8. DeGowin-DeGowin	Bedside Diagnostic Examination 4th Edition	McMillan Publishing Co. Front and Brown Streets Riverside, NY 08370
9. Kapandji	Physiology of the Joints Volume 3	Churchill 19 W. 44th St. Suite 301 New York, NY 10036 1974
10. Haldeman	Modern Developments in the Principles and Practice of Chiropractic	Prentice-Hall Englewood Cliffs, NJ 07632

GUIDELINES FOR REQUESTING TRANSCRIPTS FROM THE NATIONAL BOARD OF CHIROPRACTIC EXAMINERS

1. Requests must be received TWO WEEKS prior to the time you want transcripts sent to state licensing boards.
2. Written requests with full payment are the quickest to process. You may use the form as shown below or send a postcard or letter.
3. Do specify to which state you wish your results sent.
4. The National Board only releases failing results if we have the examinee's specific written permission to do so. Example: I hereby authorize the National Board to release *both passing and failing* results to the state board of _____. (NOTE: Partial transcripts showing *only* passing grades are *not* sent)
5. The National Board releases transcript results only for your most recently completed examinations. If you wish to have us *hold* your request to include an examination you just took or are about to sit for, please state that fact clearly.
6. Include proper payment in guaranteed funds (bank draft, money order, certified check, etc.). There is no charge for the first request. For any transcript request thereafter, the fee is $12.00 per request.
7. Multiple transcript requests are most quickly handled if all funds are included with the initial letter.
8. Official transcripts bearing the National Board seal are sent *only* to state licensing boards. Unofficial transcripts (for example, one sent to the individual) are assessed the same fees but they do not carry the National Board seal.
9. Sign and date all transcript requests. Print or type the full name under which you sat for the National Boards.
10. We do out best to process promptly any requests received by regular mail. Should you have communications you feel to be of significant importance where receipt by the National Board should be verified, we suggest you use Registered Mail.

6/84

NATIONAL BOARD OF CHIROPRACTIC EXAMINERS

Executive Offices: 1610 29th Avenue Place • Greeley, Colorado 80631 • (303) 356-9100

REQUEST TO RELEASE SCORES TO THE _____ STATE BOARD OF LICENSING EXAMINERS

I hereby authorize the National Board of Chiropractic Examiners to release my most recent *passing and failing scores* (including the _____ examination) to the _____ State board of Licensing Examiners.

There is no charge for the first transcript request. Additional requests are processed at the rate of $12.00 per request. *Appropriate fees are enclosed* in the form of guaranteed funds such as a bank draft, certified check or money order. Personal checks will NOT be accepted unless certified.

NAME (please print) _____

ADDRESS _____

DATE _____ SIGNATURE _____

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